

AMENDED IN ASSEMBLY APRIL 28, 2011

AMENDED IN ASSEMBLY APRIL 13, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 864

Introduced by Assembly Member Huffman

February 17, 2011

An act to amend Section 379.6 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 864, as amended, Huffman. Electricity: self-generation incentive program.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the PUC, in consultation with the State Energy Resources Conservation and Development Commission (Energy Commission), to administer, until January 1, 2016, a self-generation incentive program (SGIP) for distributed generation resources and to separately administer solar technologies pursuant to the California Solar Initiative. Existing law limits eligibility for SGIP incentives to distributed energy resources that the PUC, in consultation with the State Air Resources Board (state board), determines will achieve reductions in emissions of greenhouse gases pursuant to the California Global Warming Solutions Act of 2006.

This bill would require that distributed energy resources with a nameplate generating capacity of up to 10 megawatts are eligible for incentives, but would limit the award of incentives to not more than 5 megawatts of that capacity. *The bill would limit incentives being made*

available for distributed energy resources with a nameplate generating capacity above 3 megawatts to those technologies that meet cost-effectiveness rules established by the commission. The bill would require that incentives made available for distributed energy resources with a nameplate generating capacity greater than 3 megawatts be based on a declining schedule determined by the commission.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the program that is extended under the provisions of this bill are within the act and a decision or order of the commission would be required to implement the program requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 379.6 of the Public Utilities Code is
2 amended to read:
3 379.6. (a) (1) The commission, in consultation with the Energy
4 Commission, may authorize the annual collection of not more than
5 the amount authorized for the self-generation incentive program
6 in the 2008 calendar year, through December 31, 2011. The
7 commission shall require the administration of the program for
8 distributed energy resources originally established pursuant to
9 Chapter 329 of the Statutes of 2000 until January 1, 2016. On
10 January 1, 2016, the commission shall provide repayment of all
11 unallocated funds collected pursuant to this section to reduce
12 ratepayer costs.
13 (2) The commission shall administer solar technologies
14 separately, pursuant to the California Solar Initiative adopted by
15 the commission in Decision 06-01-024.

1 (b) (1) Eligibility for incentives under the program shall be
2 limited to distributed energy resources that the commission, in
3 consultation with the State Air Resources Board, determines will
4 achieve reductions of greenhouse gas emissions pursuant to the
5 California Global Warming Solutions Act of 2006 (Division 25.5
6 (commencing with Section 38500) of the Health and Safety Code).

7 (2) (A) Distributed energy resources with a nameplate
8 generating capacity of up to 10 megawatts shall be eligible for
9 incentives, but incentives shall not be available for more than five
10 megawatts of that capacity.

11 (B) *Incentives shall not be made available for distributed energy*
12 *resources with a nameplate generating capacity greater than 3*
13 *megawatts unless the technology utilized for the distributed energy*
14 *resource meets cost-effectiveness rules established by the*
15 *commission. This subparagraph does not require the commission*
16 *to open a new proceeding and it is the intent of the Legislature*
17 *that the commission apply the cost-effectiveness rules developed*
18 *in Rulemaking 10-05-004.*

19 (C) *Incentives made available for distributed energy resources*
20 *with a nameplate generating capacity greater than 3 megawatts,*
21 *up to 5 megawatts of capacity, shall be based on a declining*
22 *schedule determined by the commission.*

23 (c) Eligibility for the funding of any combustion-operated
24 distributed generation projects using fossil fuel is subject to all of
25 the following conditions:

26 (1) An oxides of nitrogen (NO_x) emissions rate standard of 0.07
27 pounds per megawatthour and a minimum efficiency of 60 percent,
28 or any other NO_x emissions rate and minimum efficiency standard
29 adopted by the State Air Resources Board. A minimum efficiency
30 of 60 percent shall be measured as useful energy output divided
31 by fuel input. The efficiency determination shall be based on
32 100-percent load.

33 (2) Combined heat and power units that meet the 60-percent
34 efficiency standard may take a credit to meet the applicable NO_x
35 emissions standard of 0.07 pounds per megawatthour. Credit shall
36 be at the rate of one megawatthour for each 3.4 million British
37 thermal units (Btus) of heat recovered.

38 (3) The customer receiving incentives shall adequately maintain
39 and service the combined heat and power units so that during
40 operation, the system continues to meet or exceed the efficiency

1 and emissions standards established pursuant to paragraphs (1)
2 and (2).

3 (4) Notwithstanding paragraph (1), a project that does not meet
4 the applicable NO_x emissions standard is eligible if it meets both
5 of the following requirements:

6 (A) The project operates solely on waste gas. The commission
7 shall require a customer that applies for an incentive pursuant to
8 this paragraph to provide an affidavit or other form of proof, that
9 specifies that the project shall be operated solely on waste gas.
10 Incentives awarded pursuant to this paragraph shall be subject to
11 refund and shall be refunded by the recipient to the extent the
12 project does not operate on waste gas. As used in this paragraph,
13 “waste gas” means natural gas that is generated as a byproduct of
14 petroleum production operations and is not eligible for delivery
15 to the utility pipeline system.

16 (B) The air quality management district or air pollution control
17 district, in issuing a permit to operate the project, determines that
18 operation of the project will produce an onsite net air emissions
19 benefit, compared to permitted onsite emissions if the project does
20 not operate. The commission shall require the customer to secure
21 the permit prior to receiving incentives.

22 (d) In determining the eligibility for the self-generation incentive
23 program, minimum system efficiency shall be determined either
24 by calculating electrical and process heat efficiency as set forth in
25 Section 216.6, or by calculating overall electrical efficiency.

26 (e) In administering the self-generation incentive program, the
27 commission may adjust the amount of rebates and evaluate other
28 public policy interests, including, but not limited to, ratepayers,
29 and energy efficiency, peak load reduction, load management, and
30 environmental interests.

31 (f) The commission shall ensure that distributed generation
32 resources are made available in the program for all ratepayers.

33 (g) (1) In administering the self-generation incentive program,
34 the commission shall provide an additional incentive of 20 percent
35 from existing program funds for the installation of eligible
36 distributed generation resources from a California supplier.

37 (2) “California supplier” as used in this subdivision means any
38 sole proprietorship, partnership, joint venture, corporation, or other
39 business entity that manufactures eligible distributed generation

1 resources in California and that meets either of the following
2 criteria:

3 (A) The owners or policymaking officers are domiciled in
4 California and the permanent principal office, or place of business
5 from which the supplier's trade is directed or managed, is located
6 in California.

7 (B) A business or corporation, including those owned by, or
8 under common control of, a corporation, that meets all of the
9 following criteria continuously during the five years prior to
10 providing eligible distributed generation resources to a
11 self-generation incentive program recipient:

12 (i) Owns and operates a manufacturing facility located in
13 California that builds or manufactures eligible distributed
14 generation resources.

15 (ii) Is licensed by the state to conduct business within the state.

16 (iii) Employs California residents for work within the state.

17 (3) For purposes of qualifying as a California supplier, a
18 distribution or sales management office or facility does not qualify
19 as a manufacturing facility.

20 (h) The costs of the program adopted and implemented pursuant
21 to this section shall not be recovered from customers participating
22 in the California Alternate Rates for Energy (CARE) program.

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.